



120
Docket No.: M4065.0939/P939
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Howard E. Rhodes

Examiner: Thinh T. Nguyen

Application No.: 10/695,160

Art Unit: 2818

Filed: October 29, 2003

For: PINNED PHOTODIODE STRUCTURE AND
METHOD OF FORMATION

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is in response to the restriction requirement set forth in the Office Action dated May 27, 2005. Applicant hereby elects Group I, claims 1-67 and 235, for continued examination with traverse.

Applicant respectfully submits that given the circumstances of this case, it would not be a serious burden for the Examiner to examine all of the claims at this time. M.P.E.P. § 803 provides that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

In this case, the Examiner previously issued two Restriction Requirements dated April 6, 2005 and January 21, 2005, respectively. In the January 21, 2005 Restriction Requirement, the Examiner stated that claims 1-122 and 234-239 were drawn to a semiconductor device, classified in class 257, subclass 292 (pg. 2). In the April 6, 2005 Restriction Requirement, the Examiner *again* stated that claims 1-122, 234-236, and

239 were drawn to an image pixel semiconductor device, classified in class 257, and subclass 292. Consequently, the Examiner has conducted at least two previous searches which encompasses Group I, claims 1-67 and 235, and Group II, claims 68-122, 234, 236, and 239. It is not a serious burden for the Examiner to examine all the claims at this time since the Examiner could have restricted these claims out in the two previous Restriction Requirements.

Moreover, in the present Restriction Requirement, the Examiner states that the Group I claims, *i.e.*, 1-67 and 235, are classified in class 257. The Examiner acknowledges that Group II claims, *i.e.*, 68-122, 234, 236, and 239 are classified in class 257. As a result, it is not a serious burden for the Examiner to examine all the claims at this time since Group I and Group II are classified in the same class.

An action on the merits of all the claims and a Notice of Allowance thereof are respectfully requested.

Dated: June 27, 2005

Respectfully submitted,

By 

Thomas J. D'Amico

Registration No.: 28,371

DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorney for Applicant